**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE KURIAN JOSEPH**

**FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929**

**OP.No. 8571 of 2001(U)**
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**PETITIONERS:**
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1. **K. MUMTAZ,**
   **W/O. M. ZUBAIR HAJEE,**
   **45 YRS, RESIDING AT SILVER PLAZA,**
   **MAVOOR ROAD, CALICUT-4.**

2. **M. ZUBAIR HAJEE,**
   **53 YRS, S/O. LATE MOHAMMED,**
   **RESIDING AT SILVER PLAZA,**
   **MAVOOR ROAD, CALICUT-4.**

**BY ADV. SRI.N.N.SUGUNAPALAN (SR.)**
**SRI.S.SUJIN**

**RESPONDENTS:**
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1. **THE RANGE OFFICER,**
   **MEPPADI RANGE,**
   **WAYANAD DIST.**

2. **THE DIVISIONAL FOREST OFFICER,**
   **SOUTH WAYANAD DIVISION,**
   **KALPETTA, WAYANAD DIST.**

3. **THE DIVISIONAL FOREST OFFICER,**
   **FLYING SQUAD, VANASHREE,**
   **MATHOTAM, KOZHIKODE.**

4. **THE CUSTODIAN OF VESTED FOREST,**
   **PALGHAT.**

5. **THE STATE OF KERALA, REP, BY ITS**
   **CHIEF SECRETARY, THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SMT. K.R.DEEPA**

**THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**ORDER ON CMP NO. 13771/2001 IN OP NO. 8571/2001 U.**

**DISMISSED**

**15/06/2007. SD/- KURIAN JOSEPH, JUDGE.**

**APPENDIX**

**PETITIONER'S EXHIBITS**

**EXT.P1. COPY OF THE ORDER IN OA NO. 119/1975 DT. 10/5/77.**

**EXT.P2. COPY OF THE ORDER IN OA NO. 121/75 DT. 10/5/77.**

**EXT.P3. COPY OF THE JUDGMENT IN MFA 348/77 BY THIS COURT.**

**EXT.P4. COPY OF THE JUDGMENT IN MFA NO. 354/77.**

**EXT.P5. COPY OF THE ORDER IN RP 104/84 DT. 13/7/93.**

**EXT.P6. COPY OF THE ORDER IN RP 120/84 DT. 27/7/93.**

**EXT.P7. COPY OF THE LETTER SENT BY THE POWER OF ATTORNEY HOLDER, DT. 6/5/95.**

**EXT.P8. COPY OF THE LETTER SENT BY THE DIST. COLLECTOR, DT. 2/6/95.**

**EXT.P9. COPY OF THE LETTER SENT BY THE POWER OF ATTORNEY DT. 28/4/00.**

**EXT.P10. COPY OF THE MAHAZAR DT. 6/11/00.**

**EXT.P11. COPY OF THE NOTICE BY THE R1 TO THE POWER OF ATTORNEY HOLDERS DT. 16/2/2001.**

**RESPONDENT'S EXHIBITS**

**EXT.R3A. COPY OF THE ASSIGNMENT DEED NO. 1124/87 OF SRO, VYTHIRI.**

**EXT.R3B. COPY OF THE ASSIGNMENT DEED NO. 1126/87 OF SRO, VYTHIRI.**

*True copy*

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**KURIAN JOSEPH, J.**

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**O.P. NO. 8571 OF 2001**

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**Dated this the 15th day of June, 2007.**

**J U D G M E N T**

This original petition is filed with the following prayers.

i) To issue a writ of prohibition or any other appropriate writ, order or direction, restraining the respondents from taking forceful possession of the properties covered by Exhibit P1 and P2 judgments and the land reconveyed by Ext. P10 Mahazar.

ii) To issue a writ of mandamus or any other appropriate writ, order or direction to the respondents not to interfere with the legal possession of the petitioners over the land covered by Exhibit P1 and P2 judgments.

iii) To declare that the lands covered by Exhibit P1 and P2 judgments absolutely belong to the petitioners and that the respondents have absolutely no manner of right to interfere with the right of the petitioner over those properties.

iv) To declare that the properties belonging to the petitioners, against which eviction proceedings have been initiated by the respondents under the Kerala Forest (Vesting and Management of Ecologically Fragile Lands) Ordinance 2000, is not ecologically fragile land as defined under the Ordinance and that no proceedings can be initiated against the petitioners property on the ground that it is ecologically fragile land.

v) To declare that the Ordinance has become invalid and that no proceedings can be initiated under the said

Ordinance either against the petitioners or their lands.

vi) To call for the records relating to Ext. P11 and issue a writ of certiorari or any other appropriate writ, order or direction to quash the same.

2. It is submitted that the property has since been notified as ecologically fragile land. Therefore, it is for the petitioners to pursue their grievance in appropriate proceedings.

This original petition is disposed of as above.

**KURIAN JOSEPH, JUDGE.**

smp